

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0443
Individual Income Tax
Calendar Years 1992, 1993, 1994, 1995, and 1996

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ISSUE(S)

I. Individual Income Tax – Failure to file returns

Authority: 45 IAC 3.1-1-1

Taxpayer protests the audit assessment

II. Tax Administration – Penalty

Authority: IC 6-8-10-1-2.1, 45 IAC 15-11-2

The Department addresses the penalty.

STATEMENT OF FACTS

Taxpayer failed to show for a hearing scheduled for Monday, April 24, 2000. The determination is made based upon information contained in the audit file and taxpayer's protest letter dated July 10, 1998. The Department has allowed the taxpayer ample time to provide information.

Taxpayer operates a retail operation under various names and guises. A sales tax audit was conducted based upon information provided the auditor. The income flows through to the taxpayer as no business was incorporated. Few records were kept or made available to the auditor.

The auditor states, that after repeated requests, he was supplied with some records that consisted of income statements based upon bank statements saved or obtained by the taxpayer. The source documents were never made available to him and according to the taxpayer, the records were reconstructed from bank statements and cancelled checks. The taxpayer further stated to the auditor that not every month of every bank account maintained was used to construct these statements. The auditor found it necessary, based upon what was supplied and what was missing, to attribute an amount that is presumed to be closer to the actual amount. No records were made available for 1992. The auditor attributed 1992 in total and partially for all other years at audit.

The taxpayer filed no individual income tax returns for the years at audit. The auditor adjusted income, according to taxpayer's records, by both increasing or decreasing income and expenses.

On July 27, 1999 the file was returned to the auditor because the taxpayer stated that it had additional information to negate a portion of the assessment. On September 17, 1999 the auditor returned the file to the Legal Division without resolution.

I. Individual Income Tax – Failure to file Returns

DISCUSSION

Taxpayer's letter dated July 10, 1998 states it does not owe what the department determined and its accountants have information with the detailed correct information. Taxpayer, however, did not provide documentation except to prolong the hearings that were scheduled three times previously.

FINDING

Taxpayer's protest is denied.

II. Tax Administration – Penalty

DISCUSSION

Although the taxpayer did not specifically protest the penalty assessed, the department addresses the penalty. Taxpayer failed to file IT-40 returns as required.

Taxpayer has not provided reasonable cause for the failure to file returns.

FINDING

Taxpayer's protest is denied.

CONCLUSION

Taxpayer's protest is denied for issues I and II.